UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _16 November 2004_.

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
　　closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-14 and 16-45_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-14 and 16-45_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the RCE filed 11/16/04.

2.   Claims 7-9 were amended.

3.   Claims 1-14 and 16-45 are pending in this Office Action.

Response to Amendment

4.   The rejections of Claims 7-9 under 35 USC §112, second paragraph, are

withdrawn.

5.   Applicant's arguments filed 11/16/04 have been fully considered but they are not

persuasive.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1-14 and 16-25, 27-36 and 39-44 and is rejected under 35 U.S.C. 102(e)

as being anticipated by U.S. Patent 5,878,228 by Miller et al. (Miller).

8.   With respect to Claim 1, Miller teaches a method, comprising: a) generating, at a

client, a request for an action to a be performed by a server to a data object, said data

object being maintained by said server (Col. 5 lines 2-5); b) sending an initial request message from said client to said server over a network, wherein said initial request message asks for a first portion of a response to said request (Col. 5 lines 2-8), wherein said initial request message further comprises: 1) a description of said action (Col. 5 line 60 to Col. 6 lines 8); 2) a description of said data object (Col. 6 lines 65-67); 3) a first limit that defines the maximum amount of data that said server is allowed to send to said client in answering said initial request message (Col. 5 lines 5-10 and Col. 6 lines 52-56); 4) a second limit that defines a maximum datagram size that can be formed by said server in said answering said initial request message (Col. 5 lines 7-8); c) maintaining an understanding at a client of those portions of said first portion that have been sent by said server and received from said network by said client (Col. 5 lines 29-45); and d) issuing another request message from said client to said server for another portion of said response that has not been received at said client (Col. 5 lines 29-45).

9.   With respect to Claim 2, Miller teaches all the limitations of Claim 1 and further teaches sending a reply message from said server to said client, said reply message having at least a portion of said first portion of said response (Col. 5 lines 29-33 and lines 6-16).

10.   With respect to Claim 3, Miller teaches all the limitations of Claim 2 and further teaches said reply message further comprises an indication of a size of said response (Col. 7 lines 1-23, particularly lines 15-17).

11.   With respect to Claim 4, Miller teaches all the limitations of Claim 3 and further teaches said indication of a size of said response further comprises an indication of how

much of said response remains to be delivered to said client (Col. 7 lines 1-23 and Col.8

lines 23-40).

12.   With respect to Claim 5, Miller teaches all the limitations of Claim 2 and further

teaches said reply message is part of a burst of reply messages, said burst of reply

messages carrying said first portion of said response (Col. 5 lines 10-18).

13.   With respect to Claim 6, Miller teaches all the limitations of Claim 2 and further

teaches said another request message comprises a starting address (Col. 6 lines 48-

51) and an extent (Col. 6 lines 52-55).

14.   With respect to Claim 7, Miller teaches all the limitations of Claim 6 and further

teaches said starting address corresponds to an address between a starting address for

said response and an ending address for said response (Col. 6 lines 48-51).

15.   With respect to Claim 8, Miller teaches all the limitations of Claim 6 and further

teaches said extent corresponds to an address between a starting address for said

response and an ending address for said response (Col. 6 lines 52-55).

16.   With respect to Claim 9, Miller teaches all the limitations of Claim 2 and further

teaches said reply message further comprises an indication of a capacity of said server

(Col. 5 lines 10-15 and Col. 9 line 64 - Col. 10 line 4).

17.   With respect to Claim 10, Miller teaches all the limitations of Claim 9 and further

teaches said indication of a capacity of said server further comprises a server burst size

limit (Col. 5 lines 10-15 and Col. 9 line 64 - Col. 10 line 4).

18.   With respect to Claim 11, Miller teaches all the limitations of Claim 2 and further

teaches said another request message further comprises an indication of a capacity of

said client (Col. 5 lines 6-10).

19.   With respect to Claim 12, Miller teaches all the limitations of Claim 11 and further

teaches said indication of a capacity of said client further comprises a client burst limit

(Col. 5 lines 9-10).

20.   With respect to Claim 13, Miller teaches all the limitations of Claim 2 and further

teaches said another request message further comprises a description of an object

located at said server (Col. 6 lines 65-67).

21.   With respect to Claim 14, Miller teaches all the limitations of Claim 13 and further

teaches said another request message further comprises an action to be taken by said

server upon said request (Col. 6 lines 41-45).

22.   With respect to Claim 16, Miller teaches a method, comprising: a) generating, at

a client, a request for an action to a be performed by a server to a data object, said data

object being maintained by said server (Col. 5 lines 2-5); b) sending an initial request

message from said client to said server over a network, wherein said initial request

message asks for a first portion of a response to said request (Col. 5 lines 2-8), wherein

said initial request message further comprises: 1) a description of said action (Col. 5 line

60 to Col. 6 lines 8); 2) a description of said data object (Col. 6 lines 65-67); 3) a first

limit that defines the maximum amount of data that said server is allowed to send to

said client in answering said initial request message (Col. 5 lines 5-10 and Col. 6 lines

52-56); 4) a second limit that defines a maximum datagram size that can be formed by

said server in said answering said initial request message (Col. 5 lines 7-8); c)

performing, at said server, at least a part of said action to said data object (Col. 5 lines

10-16); and d) sending a burst of reply messages from said server to said client over

said network in order to provide said answering to said initial request message (Col. 5

lines 10-16), wherein: 1) each reply message within said burst of reply messages

carries a different piece of said asked for first portion, wherein, each of said different

pieces is not larger than said second limit and wherein (Col. 5 lines 6-16) 2) the

aggregate of said different pieces is an amount of data that is not larger than said first

limit (Col. 5 lines 6-16).

23.   With respect to Claim 17, Miller teaches all the limitations of Claim 16 and further

teaches said client and said server can identify said response as an addressable block

of data (Col. 5 lines 19-21).

24.   With respect to Claim 18, Miller teaches all the limitations of Claim 17 and further

teaches said request further comprises: 1) a first address of said block of data that

corresponds to a starting address for said response (Col. 6 lines 48-51); and 2) a

second address of said block of data that corresponds to a terminating address for said

response (Col. 6 lines 52-55).

25.   With respect to Claim 19, Miller teaches all the limitations of Claim 17 and further

teaches said request defines: 1) a first address of said block of data that corresponds to

a starting address for said response (Col. 6 lines 48-51); and 2) an extent value that

describes how much information beyond said starting address corresponds to the rest

of said response (Col. 6 lines 52-55).

26.   With respect to Claim 20, Miller teaches all the limitations of Claim 16 and further teaches said request indicates said response is to be crafted as only a section of a full response, said full response being the complete result of said action being performed on said data object (Col. 5 lines 1-5).

27.   With respect to Claim 21, Miller teaches all the limitations of Claim 16 and further teaches sending a second request message from said client to said server over said network, wherein said second request messages asks for a second portion of said response (Col. 5 lines 1-5).

28.   With respect to Claim 22, Miller teaches all the limitations of Claim 21 and further teaches said second request message further comprises said first limit and said second limit (Col. 5 lines 6-10).

29.   With respect to Claim 23, Miller teaches all the limitations of Claim 21 and further teaches sending a second burst of reply messages from said server to said client in order to answer said second request message (Col. 5 lines 10-16).

30.   With respect to Claim 24, Miller teaches all the limitations of Claim 16 and further teaches said first limit is maintained by said client (Col. 5 lines 8-10), and a third limit is maintained by said server (Col. 5 lines 10-15), said third limit defining the maximum amount of data that said server is allowed to send to said client in answering said initial request message, wherein said third limit is less than said first limit and said aggregate of said different pieces is an amount of data that is not larger than said third limit (Col. 5 lines 6-16).

31.   With respect to Claim 25, Miller teaches all the limitations of Claim 16 and further teaches at least one of said reply messages further comprises the size of said response (Col. 7 lines 1-23, particularly lines 15-17).

32.   With respect to Claim 27, Miller teaches all the limitations of Claim 16 and further teaches said client assigns a transaction identifier to said request and includes said transaction identifier into said initial request (Col. 5 lines 1-5 and Col. 6 lines 5-7).

33.   With respect to Claim 28, Miller teaches a machine readable medium having stored thereon a sequence of instructions which when executed by a processing core cause said processing core to perform a method, said method comprising: forming an initial request message for sending over a network to a server, wherein said initial request message asks for a first portion of a response to a request (Col. 5 lines 2-8) from a software program for an action to be performed by a server to a data object, wherein said initial request message further comprises: 1) a description of said action (Col. 5 line 60 to Col. 6 lines 8); 2) a description of said data object (Col. 6 lines 65-67); 3) a first limit that defines the maximum amount of data that said server is allowed to send to said client in answering said initial request message (Col. 5 lines 5-10 and Col. 6 lines 52-56); 4) a second limit that defines a maximum datagram size that can be formed by said server in said answering said initial request message (Col. 5 lines 7-8).

34.   With respect to Claim 29, Miller teaches all the limitations of Claim 28 and further teaches said application software program can identify said response as an addressable block of data (Col. 5 lines 19-21).

35.   With respect to Claim 30, Miller teaches all the limitations of Claim 29 and further

teaches said request further comprises: 1) a first address of said block of data that

corresponds to a starting address for said response (Col. 6 lines 48-51); and 2) a

second address of said block of data that corresponds to a terminating address for said

response (Col. 6 lines 52-55).

36.   With respect to Claim 31, Miller teaches all the limitations of Claim 29 and further

teaches said request defines: 1) a first address of said block of data that corresponds to

a starting address for said response (Col. 6 lines 48-51); and 2) an extent value that

describes how much information beyond said starting address corresponds to the rest

of said response (Col. 6 lines 52-55).

37.   With respect to Claim 32, Miller teaches all the limitations of Claim 28 and further

teaches said request indicates said response is to be crafted as only a section of a full

response, said full response being the complete result of said action being performed

on said data object (Col. 5 lines 1-5).

38.   With respect to Claim 33, Miller teaches all the limitations of Claim 28 and further

teaches forming a second request message for sending to said server over said

network, wherein said second request messages asks for a second portion of said

response (Col. 5 lines 1-5).

39.   With respect to Claim 34, Miller teaches all the limitations of Claim 33 and further

teaches said second request message further comprises said first limit and said second

limit (Col. 5 lines 6-10).

40.   With respect to Claim 35, Miller teaches all the limitations of Claim 28 and further

teaches receiving a burst of reply messages that were sent over said network from said

server in order to provide said answering to said initial request message (Col. 5 lines

10-16), wherein: 1) each reply message within said burst of reply messages carries a

different piece of said asked for first portion, wherein, each of said different pieces is not

larger than said second limit (Col. 5 lines 8-9) and wherein 2) the aggregate of said

different pieces is an amount of data that is not larger than said first limit (Col. 5 lines 9-

10).

41.   With respect to Claim 36, Miller teaches all the limitations of Claim 35 and further

teaches at least one of said reply messages further comprises the size of said response

(Col. 7 lines 1-23, particularly lines 15-17).

42.   With respect to Claim 39, Miller teaches a machine readable medium having

stored thereon a sequence of instructions which when executed by a processing core

cause said processing core to perform a method, said method comprising: forming a

burst of reply messages in order to provide an answer to an initial request message that

was sent over a network by a client (Col. 5 lines 10-16), wherein said initial request

message asked for a first portion of a response to a request from a client software

program for an action to be performed to a data object (Col. 5 lines 1-10), wherein: a)

said initial request message further comprised: 1) a description of said action (Col. 5

line 60 to Col. 6 lines 8); 2) a description of said data object (Col. 6 lines 65-67); 3) a

first limit that defines the maximum amount of data that said server is allowed to send to

said client in answering said initial request message (Col. 5 lines 5-10 and Col. 6 lines

52-56); 4) a second limit that defines a maximum datagram size that can be formed by said server in said answering said initial request message (Col. 5 lines 7-8); and b) wherein: 1) each reply message within said burst of reply messages carries a different piece of said asked for first portion, wherein, each of said different pieces is not larger than said second limit (Col. 5 lines 6-10) and wherein 2) the aggregate of said different pieces is an amount of data that is not larger than said first limit (Col. 5 lines 6-10).

43.   With respect to Claim 40, Miller teaches all the limitations of Claim 39 and further teaches receiving a second request message that was sent by said client over said network, wherein said second request message asked for a second portion of said response (Col. 5 lines 1-5).

44.   With respect to Claim 41, Miller teaches all the limitations of Claim 40 and further teaches sending a second burst of reply messages from said server to said client in order to answer said second request message (Col. 5 lines 6-16).

45.   With respect to Claim 42, Miller teaches all the limitations of Claim 39 and further teaches maintaining a third limit, said third limit defining the maximum amount of data that is allowed to be sent to said client in answering said initial request message (Col. 5 lines 10-15).

46.   With respect to Claim 43, Miller teaches all the limitations of Claim 42 and further teaches said aggregate of said different pieces is an amount of data that is not larger than said third limit if said third limit is less than said first limit (Col. 5 lines 10-15).

47.   With respect to Claim 44, Miller teaches all the limitations of Claim 39 and further

teaches at least on of said reply messages further comprises the size of said response

(Col. 7 lines 1-23, particularly lines 15-17).

Claim Rejections - 35 USC § 103

48.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

49.   Claim 26, 37, 38 and 45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Miller in view of U.S. Patent 5,845,280 by Treadwell, III et al.

(Treadwell).

50.   With respect to Claim 26, Miller teaches all the limitations of Claim 16 but does

not explicitly disclose returning an object identifier that can be used for subsequent

requests on the same object. However, Treadwell shows it is well known in the art that

data objects can be assigned an object identifier (Col. 2 lines 25-29) that can be used in

subsequent requests (Col. 7 lines 8-16). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to take the method disclosed by Miller

and modify it as indicated by Treadwell such that at least one of said reply messages

further comprises an object identifier that said client may use to refer to said data object

for subsequent requests that invoke said data object. One would be motivated to have

this as it reduces overhead in data transmission procedures (Col. 2 lines 29-35 of

Treadwell).

51.   With respect to Claim 37, Miller teaches all the limitations of Claim 35 but does

not explicitly disclose returning an object identifier that can be used for subsequent

requests on the same object. However, Treadwell shows it is well known in the art that

data objects can be assigned an object identifier (Col. 2 lines 25-29) that can be used in

subsequent requests (Col. 7 lines 8-16). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to take the machine readable medium

disclosed by Miller and modify it as indicated by Treadwell such that at least one of said

reply messages further comprises an object identifier that may be used to refer to said

data object for subsequent requests that invoke said data object. One would be

motivated to have this as it reduces overhead in data transmission procedures (Col. 2

lines 29-35 of Treadwell).

52.   With respect to Claim 38, Miller in view of Treadwell further teaches said method

further comprises assigning a transaction identifier to said request and including said

transaction identifier into said initial request message (Col. 5 lines 1-5 and Col. 6 lines

5-7 of Miller).

53.   With respect to Claim 45, Miller teaches all the limitations of Claim 39 but does

not explicitly disclose returning an object identifier that can be used for subsequent

requests on the same object. However, Treadwell shows it is well known in the art that

data objects can be assigned an object identifier (Col. 2 lines 25-29) that can be used in

subsequent requests (Col. 7 lines 8-16). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to take the machine readable medium

disclosed by Miller and modify it as indicated by Treadwell such that at least one of said

reply messages further comprises an object identifier that said client may use to refer to

said data object for subsequent requests that invoke said data object. One would be

motivated to have this as it reduces overhead in data transmission procedures (Col. 2

lines 29-3 of Treadwell 5).

Response to Arguments

54.   Applicant's arguments filed 11/16/04 have been fully considered but they are not

persuasive.

55.   Applicant argues - "*The Examiner's first position above is simply not credible.
The Examiner is attempting to construct a limitation with respect to time in the
Applicant's claim element where none exists. The claim element at issue (the "first
limit") simply defines "the maximum amount of data that [the] server is allowed to send
to [the] client in answering [the] initial request message". There is no limitation in the
claim language itself with regard to the amount of time that the server may spend "in
answering the initial request message". Therefore it is impossible for the Examiner to
construct a time related limitation and corresponding "rate" from the Applicant's claim
language.*"

   a.   The important issue to consider, in regards to this argument, is the scope

       of the limitation "a first limit that defines the maximum amount of data that said

       server is allowed to send to said client in answering said initial request message."

       On page 17 of the Remarks filed 5/12/04, Applicant stated in regards to the cited

       rate of Miller, "Here, a rate is measured in units of data per unit time (e.g.,

       packets per second or kilobytes per second) while an amount of data is

measured in units of data (e.g., megabytes or kilobytes)." If one considers an amount of data to be "units of data", then a rate can be considered an amount of data since it is "units of data" with respect to an aspect of time. While the claim language does not specify an aspect of time, the claim language does not exclude an aspect of time. Furthermore, the claim language uses the transitional phrases "comprises" and "comprising". As stated in the MPEP 2111.03, "the transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps". As such, the Examiner was not attempting to construct a limitation with respect to time; rather, the Examiner is contending that the scope of the claimed limitation regarding a limit defining a "maximum amount of data" would include a limit defining a "maximum amount of data" with respect to time. For these reasons, the teachings of Miller are within the scope of the limitation "a first limit that defines the maximum amount of data that said server is allowed to send to said client in answering said initial request message."

56.   Applicant argues - "...the "NumBytes" parameter of Miller does not appear in the "initial request message". The NumBytes parameter of Miller appears in the Downloadstart message of Miller (See, Miller Col. 6, lines 36-40) which is the second request message to be send from the client to the server in the scheme taught by Miller. Specifically, the Downloadstart message of Miller requests the download of a file from the server and is sent after the GetFilesize message of Miller is sent beforehand (See, Miller Col. 6, lines 8-12). Therefore Miller fails to disclose the sending of a "first limit" as

defined in the Applicant's claims in an initial request message sent from the client to the server; and, instead, at best, could only be considered to disclose disclosing a "first limit" as defined in the Applicant's claims in a non-initial request message."

   b.   The GetFilesize is actually an optional message that can be used at any

time. "At any time, but typically before a transfer request, the client may

optionally make a request to the BLAST server for data file size information. An

appropriate GetFilesize message is constructed and sent." (emphasis added -

Col. 7 lines 28-31 and See Fig. 8). Furthermore, the claimed "initial request

message" does not necessarily have to be interpreted as being the first message

in a sequence of messages. As such, even if the GetFilesize is used before the

transfer request (like the sequence of messages shown in Fig. 8), it is not the

initial request for a first portion of a response. The initial request for a transfer of

a first portion of a response is the DownloadStart message. This is supported by

Col. 7 lines 39-43, which states in part, "To initiate a data transfer, the client

sends a request, specifically the DownloadStart message, to the server...".

Therefore, Miller does not fail to disclose the sending of a "first limit" as defined

in the Applicant's claims in an initial request message sent from the client to the

server.

Conclusion

   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David Lazaro whose telephone number is 571-272-

3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Lazaro
12/13/04

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER